IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELFTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

-

WRIT PETITION NO : 9829 of 2002

Between:

1 Balamrai Cooperative Housing Society, Rep. by its President M. Komaraiah, S/o. Late Venkataiah, R/o. 96, Dhanalaxmi Colony, Mahendra Hills, East Marredpally, Secunderabad.
2 Dr. Vijay Kumar Jhamnani, S/o. Chimandas J., R/o. 1-2-283, Pendarghast Road, Secunderabad. … Petitioners

AND

1 Government of Andhra Pradesh, rep. by the Principal Secretary to Revenue Department, Secretariat Buildings, Hyderabad.
2 The District Collector, Hyderabad, Hyderabad District.
3 The Dy. Collector, Land Protection, Hyderabad, Hyderabad District.
4 The Mandal Revenue Officer, Marredpally Mandal, Secunderabad Cantonment, Secunderabad.
5 Secunderabad Cantonment, rep. by its Executive Officer, Picket, Secunderabad. … Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order direction or writ particularly one in the nature of Writ of "Mandamus" declaring the action of the respondents in interfering with the possession of the petitioners by demolition of compound wall in respect of petitioners' possession in Plot bearing No.233, admeasuring 257.77 Sq Yards in total of S.No.74/6, Mahendra Hills, East Marredpally, Secunderabad Cantonment, Hyderabad District as being illegal, arbitrary and unconstitutional and in breach of principles of natural justice and consequently direct the respondents not to interfere with in any manner by demolition, dispossession of otherwise with the petitioners rights over the said property except in accordance with law.

Counsel for the Petitioner: MR.S.NIRANJAN REDDY

Counsel for the Respondents 1 to 4: G.P. for Revenue

Counsel for the Respondent no.5 : MR.Y.V.RAVI PRASAD

The Court made the following :

ORDER:

This Writ Petition is filed challenging the action of the respondents in interfering with the possession of the petitioners by demolishing compound wall in plot no.233 admeasuring 257.77 square yards in survey no.74/6, Mahendra Hills, East Maredpally, Secunderabad contonment, Hyderabad.

It is submitted by the petitioner that the first petitioner is registered society under the Andhra Pradesh Co-operative Societies Act, 1964 and second petitioner is its member. It purchased an extent Ac.39.39 guntas of land in survey no.7/6 in East Maredpally within contonment limits of Secunderabad, originally belonged to one William Ceaser, under registered sale deeds dated 12.11.1956 and 01.11.1960, in favour of one Dr. E.N.Dass. There was a settlement among family members of said E.N.Dass and all the allottees entered into agreement of sale with the first petitioner on 05.01.1982 by receiving substantial sale considerations. Accordingly, they obtained exemption from Central Government under Section 29(1)(a) of the Urban Land (Ceilings & Regulations) Act, 1976 exempting the land from the provisions of Chapter III of the Act as per order dated 18.05.1985. Accordingly, sale deeds were executed by the owners in favour of the first petitioner. Thereafter, the first petitioner developed the land and converted the same into 300 plots together with open spaces and submitted a lay out plan to the contonment board for approval. The board has sanctioned the lay out as per orders dated 29.11.1985 and subsequently, plots were allotted to the members of the society and in favour of second respondent by registered sale deed dated 24.02.1987. Meanwhile, the first respondent initiated proceedings before the Special Court under the A.P. Land Grabbing (Prohibition) Act, 1982, by way of filing L.G.C. No.167 of 1997, which

is still pending consideration. Earlier, when the respondents made an attempt to interfere with the petitioners' possession of the land, first petitioner filed Writ Petition No.15353 of 2001 and a direction was given by this Court restraining the respondents from demolishing and dispossessing the petitioners from plots 45 and 44 admeasuring 919.105 square yards in sy.no.74/6. But, on 01.06.2002, when the respondents started to demolish part of the compound wall erected by the second petitioner, this Writ Petition is filed.

On 19.06.2002, a learned single Judge of this Court directed the respondents not to dispossess the petitioners from the schedule land and both the parties to maintain *status quo* with regard to construction existing as on that day.

After hearing both the sides and considering the facts and circumstances of the case, it is seen that on one hand, the Government is claiming the land as its property and filed L.G.C. No…. before the Special Court, and on the other hand, the petitioners are claiming it as having purchased through sale deed from the owner of the land. Therefore, unless and until the rights of the parties are decided in the L.G.C., it can not be held that the petitioners are having title over the property.

In view of the above, the Writ Petition is disposed of directing both the parties to maintain *status quo,* and further not to change the nature of the land or create third party interest till disposal of the L.G.C. No costs.

12.07.2005

DRK

Copy to:

1 The Principal Secretary to Government, Revenue Department, Secretariat Buildings, Hyderabad.
2 The District Collector, Hyderabad, Hyderabad District.
3 The Dy. Collector, Land Protection, Hyderabad, Hyderabad District.
4 The Mandal Revenue Officer, Marredpally Mandal, Secunderabad Cantonment, Secunderabad.
5 Secunderabad Cantonment, rep. by its Executive Officer, Picket, Secunderabad.

6 Two CCs to the G.P. for Revenue, High Court of A.P., High Court buildings, Hyderabad (o.u.t.).

7 Two CD copies.